

March 7, 2008

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20005

**Re: MDS Operations, Inc.
Petition for Rule Waiver of MVDDS Technical Rules
WT Docket No. 07-255**

Dear Ms. Dortch:

Pursuant to Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b), this letter is to provide notice of an oral *ex parte* presentation. On March 6, 2008, Harold W. Kirkpatrick, President of MDS Operations, Inc. ("MDSO"); Dr. Bahman Badipour, President of Analytic Consulting Services ("ACS"); and Frederick M. Joyce and Christine McLaughlin of Venable LLP, met with Fred Campbell, Chief of the Wireless Telecommunications Bureau; Joel Taubenblatt, Acting Deputy Bureau Chief, and Peter Daronco, Assistant Chief of the Broadband Division, concerning MDSO's above-referenced request for waiver of the power limitations applicable to Multichannel Video Distribution and Data Services ("MVDDS").

The oral presentation was consistent with MDSO's Petition in the above-captioned proceeding, as well as MDSO's January 18, 2008 Reply to the oppositions filed in the subject proceeding. Specifically, the presentation stressed the following points made in MDSO's filings in this proceeding: (1) the Albuquerque, NM market was chosen for testing because it presented the worst-case scenario for potential interference, due to the mix of urban, suburban and rural areas, and lack of climate or geological factors that would attenuate the MVDDS signal; (2) although the test was designed to replicate a commercial system, the siting of the MVDDS transmitter was such to create a worst-case scenario, by broadcasting from the north and thus precisely in the direction of satellite receivers; (3) the Albuquerque tests demonstrated that at the higher effective isotropic radiated power ("EIRP") levels requested by MDSO, the equivalent power flux density ("EPFD") limits imposed by the Commission's Rules will be met; and (4) throughout 26 days of testing, with the MVDDS transmitter operating at EIRP levels well above the maximum permitted by the Rules at all times, including during prime time, not a single complaint of interference was received. MDSO reiterated the position, contained in its Reply, that the oppositions of the DBS licensees were based not on genuine harm to DBS but to

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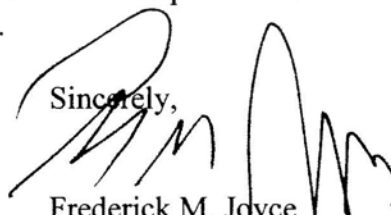
a desire to forestall competition. Mr. Kirkpatrick also related MDSO's experience with an earlier experimental grant at Clewiston, FL, during which Direct Broadcast Satellite ("DBS") operators reported numerous complaints of interference, *before* the MVDDS transmitters were installed; once the transmitters were in fact placed in operation, there were no such complaints.

MDSO's representatives also discussed the ability of its proposal to provide high-speed broadband services, especially to rural areas. It was noted that, despite the Commission's stated policies to encourage broadband deployment, the United States lags behind other countries in this regard; a grant of the requested waiver would help to alleviate that gap. Mr. Kirkpatrick described the overseas systems of MDSO's affiliates, including the systems in the United Arab Emirates and Ireland. Mr. Kirkpatrick noted that in other nations where high-powered MVDDS shares spectrum with DBS, the DBS systems operate at lower power levels than U.S. DBS licensees; yet, those systems have not experienced harmful interference from MDSO's affiliate's systems. Both Mr. Kirkpatrick and Dr. Badipour noted that careful site engineering is critical in high-power MVDDS operations and MDSO's expertise in this area is unique; licensee-customers in other countries who attempted to operate systems on their own, even with equipment purchased from MDSO, were unable to replicate MDSO's coverage and reliability.

Finally, MDSO's representatives requested prompt action on the Petition. MDSO's build-out obligations for approximately 60 licenses are due in July of 2009. Moreover, Mr. Kirkpatrick indicated that additional systems in other countries will be deployed in the near future; consequently, MDSO is facing substantial construction work over the coming year. MDSO therefore needs to begin construction of its U.S. systems as soon as possible.

Pursuant to the Commission's Rules, this *ex parte* notice is being filed electronically in the above-captioned docket through the Commission's Electronic Comment Filing System procedures. If you have any questions or require additional information, kindly contact the undersigned at (202) 344-4000.

Sincerely,



Frederick M. Joyce
Christine McLaughlin

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cc (via e-mail): Fred Campbell, Chief, Wireless Telecommunications Bureau
Joel Taubenblatt, Acting Deputy Chief, Wireless Telecom. Bur.
Peter Daronco, Assistant Division Chief, Broadband Division
Linda Kinney, EchoStar Satellite LLC
William M. Wiltshire, Harris, Wiltshire & Grannis, LLP
Susan Eid, V.P., Government Affairs, DirecTV